

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ROBERT WHITE,	)	
	)	
Petitioner,	)	
v.	)	Civil Action No. 05-40104-FDS
	)	
UNITED STATES BANKRUPTCY COURT	)	
FOR THE DISTRICT OF	)	
MASSACHUSETTS, THE HONORABLE	)	
HENRY J. BOROFF, UNITED STATES	)	
MARSHAL FOR THE DISTRICT OF	)	
MASSACHUSETTS, AND LOCAL OR	)	
FEDERAL JAIL OR PRISON WHERE	)	
PETITIONER IS HELD,	)	
	)	
Respondents.	)	
	)	

**NOTICE OF RELEASE AND MOTION TO DISMISS**

The Respondents in the above-captioned matter hereby provide notice to the Court that the United States Marshal for the District of Massachusetts ("U.S. Marshal"), at the instruction of the Bankruptcy Court, released the Petitioner, Robert White, from its custody on August 10, 2005, after Petitioner complied with the Bankruptcy Court's August 9, 2005 Order. See Order of Bankruptcy Court, dated August 9, 2005, attached at Exhibit ("Exh.") A; Order of Bankruptcy Court, dated August 10, 2005, attached at Exh. B.

The Petitioner sought to be released from his confinement, which the Bankruptcy Court imposed for his violation of an order of the court. Because Petitioner is no longer in the U.S. Marshal's custody, this action is now moot and this Court lacks the jurisdiction to address the petition. See North Carolina v.

Rice, 404 U.S. 244, 246 (1971) (federal courts lack constitutional power to decide "questions that cannot affect the rights of litigants in the case before them."); United States v. Reid, 369 F.3d 619, 624 (1st Cir. 2004) (a justiciable controversy that existed at one time, but no longer remains, is moot). Accordingly, the Court should dismiss the petition for mootness.

Respectfully submitted,  
MICHAEL J. SULLIVAN  
United States Attorney

By: /s/ Damian W. Wilmot  
DAMIAN W. WILMOT  
Assistant U.S. Attorney  
Moakley Federal Courthouse  
Boston, MA 02210  
(617) 748-3100

Dated: August 10, 2005

CERTIFICATION UNDER L.R. 7.1

Because Petitioner is acting pro se in this action, counsel for the United States respectfully requests leave to file this Motion without a 7.1 conference. It is the undersigned's position that because the Petitioner is *pro se* a 7.1 conference is unnecessary, as that Rule pertains to "counsel."

/s/ Damian W. Wilmot  
DAMIAN W. WILMOT  
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I certify that on August 10, 2005, I caused a copy of the foregoing Memorandum to be served on Petitioner by first class mail, postage pre-paid to Robert White, 243-A North Maple Avenue, Mantela, CA 95336.

/s/ Damian W. Wilmot  
DAMIAN W. WILMOT  
Assistant U.S. Attorney

Henry J. Boroff, U.S. Bankruptcy Judge

Henry J. Boroff, U.S. Bankruptcy Judge